

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of

Local Competition and Broadband Reporting

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CC Docket No. 99-301

**COMMENTS OF DYNEGY CLEC COMMUNICATIONS, INC.**

Dynegy CLEC Communications, Inc. (Dynegy) hereby submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.

**OVERVIEW**

The changes being considered in the ARMIS reporting requirements will reduce the accountability of ILECs for service quality, while imposing additional regulatory burdens on CLECs. The changes are unnecessary and will yield an inaccurate service picture of carrier performance.

**PROBLEMS WITH PROPOSED CHANGES**

**I. PREJUDICE TO CLECs**

The proposed changes being considered in this NPRM will increase the regulatory burden on CLECs and release ILECs from their duty to provide service quality data. Specifically, they reduce ILEC reporting categories from 30 to six.

CLECs should not be subjected to additional reporting requirements, particularly in the piecemeal fashion the NPRM proposes. Each new requirement adds expensive and time-consuming obligations to CLECs.

Additionally, reducing the reporting requirements for ILECs makes it more difficult for state commissions to determine whether or not ILECs are meeting service obligations to end-users and IXCs. At a minimum, it is important for ILECs to report on special access provisioning performance since CLECs are so dependent upon it.

Another area in which CLECs would suffer as the result of these changes is in customer satisfaction. Consumers could mistake poor service from incumbent carriers as poor performance from CLECs because they're most likely unaware of the fact that CLECs depend upon ILEC performance.

Finally, the costs of collecting such information are high, which could hurt small carriers. These changes would therefore defeat the purpose of gaining a true and accurate picture of service quality, while imposing unreasonable burdens on competitive local carriers.

## II. COMPARISON TO AIRLINE INDUSTRY INAPPROPRIATE

Section III(A)(12) of this NPRM states that the Commission is examining the airline industry reporting program in its consideration of how to revise existing service quality rules. This is inappropriate because airlines provide passenger transport from one point to another, while telecommunications companies provide varied and customer-specific solutions. The reporting requirements proposed by the FCC would mislead customers if matters addressing a carrier's core competence were not addressed while other, lower-volume services were.

Similarly, the comparison is inappropriate because airlines are responsible for their own performance, while CLECs are critically dependant upon ILECs. The proposed changes set out in this NPRM could offer some ILECs incentives to discriminate against CLECs because ILEC retail affiliates will realize an increased benefit from this discrimination.

## III. REQUIREMENTS UNNECESSARY

The reporting requirements as outlined in this NPRM are unnecessary for several reasons. First, ILECs are not readily opening their markets to CLECs in accordance with the provisions of the Communications Act and Commission rules; therefore, the local exchange market is not, as yet, fully competitive. Additionally, CLECs depend upon ILECs when ordering UNEs and wholesale services.

The FCC has suggested the possibility of voluntary rather than mandatory reporting. Even if reporting were voluntary, however, it would still defeat the purpose of reporting in that it would present an inaccurate picture of service performance.

Section III(A)(11) of this NPRM states, in part, that effective functioning of competitive markets is predicated on consumers having access to "accurate, meaningful

information, in a format they can understand.” If consumers report poor service, they could assume that it was a CLEC responsibility when it may have been an ILEC problem. CLECs would suffer the consequences of customer dissatisfaction while ILECs maintain the advantage over their competitors. The resulting information filtered to consumers would therefore be anything but accurate and meaningful. Dynegy therefore urges the FCC to stand behind its record of supporting free market competition and reject the changes contemplated in this NPRM in their entirety.